

REQUEST FOR RECONSIDERATION

Applicants thank Examiner Rayford for the helpful and courteous discussion of January 5, 2005. During the discussion the Examiner indicated that an amendment to require that the layers of Claims 3 are different may be entered and considered together and that Claims 7-18 may be rejoined upon an updated search.

The Office rejected Claims 3 and 4 in view of a patent to Miwamoto (U.S. 5,208,103) in view of WO 01/15897 and/or JP 54120646 (e.g., in the Abstract). It appears that the Office does not agree that the polyethylene and polyolefin-type layers recited in present Claim 3 are distinct interlayers. The Office cites to the method of producing the claimed sealant film as a ground that the layers forming the claimed film “probably form one layer during the sealant films production, so that no “distinctness” exists between them in the final sealant film.”

At the outset, Applicants note that the polyethylene resin layer and polyolefin type resin layer recited in present Claim 3 must be interlayers because the biaxially oriented polyethylene terephthalate layer is described as “the outermost layer” in the claim and the sealant layer is described as “the fourth layer” in the claim. The polyethylene resin layer and polyolefin-type resin layer between the biaxially oriented polyethylene terephthalate layer and the sealant layer and are therefore interlayers (e.g., layers internal to the biaxially oriented polyethylene terephthalate and sealant layers). The sequence of layers is also described in the first full paragraph on page 8 of the specification.

Applicants traverse the Office’s assertion that the method of producing the claimed film would result in a sealant film wherein the “distinctness” of the interlayers would be lost. As described on page 8 of the present specification:

[the heat sealing film] can be produced by a process which comprises a step of coating an AC agent on the biaxially oriented polyethylene terephthalate film of the outermost layer, a step of extrusion-coating the polyethylene resin of the second,

and a step of coextrusion-coating the polyolefin-type resin layer of the third layer and the sealant layer of the fourth layer. The second layer which corresponds to the polyolefin resin layer may therefore be produced by extrusion-coating the polyethylene resin layer, for example, onto the biaxially oriented polyethylene terephthalate film or by separately extruding the polyethylene resin layer film and placing it on top of the biaxially oriented polyethylene terephthalate film.

The third and fourth layers are produced by coextrusion-coating polyolefin type resin layer and the sealant layer. The coextrusion necessarily forms a film that is different from the second (i.e., polyethylene resin) layer. Because the specification discloses that the second layer (i.e., polyethylene resin layer) and the polyolefin type resin layer may be extruded independently from one another, Applicants submit that there is no basis from which to withdraw a conclusion that placing the polyethylene layer and the polyolefin type layer into contact with one another would produce a film having indistinguishable characteristics from one outside surface to another outside surface.

This is demonstrated on a practical basis in the first full paragraph on page 12 where one of the examples is described. A double layer film is first formed by coextruding a low density polyethylene resin with a heat-sealing resin mixture. The resulting double layer film is then laminated via a polyethylene resin. Therefore, the Example on page 12 of the specification shows that the polyolefin resin layer and the polyolefin type resin layer may be different (e.g., the polyolefin type resin may be a low density polyethylene whereas the polyethylene resin layer may be formed from generic polyethylene). The structure of the film layers of the inventive examples may be represented as (resin composition)/LDPE/PE/BOPT where LDPE is low density polyethylene; PE is polyethylene and BOPT is biaxially oriented polyethylene terephthalate.

The specification also provides a number of Comparative Examples beginning at line 21 on page 12 of the specification. The structure of the Comparative Examples may be represented as (resin composition)/LDPE/BOPT. In comparison to the inventive examples,

the Comparative Examples do not have the PE layer. As is shown in Table 2 on page 14 of the specification, the Comparative Examples do not exhibit the desirable properties obtained in the inventive examples. Applicants submit that a comparison of the inventive examples and Comparative Examples demonstrates, in part, the effect that is obtained when one has distinct polyethylene resin layers and polyolefin type resin layers. The absence of the PE layer in the Comparative Examples may be one reason that the Comparative Example sealing films are enabled to provide the heat sealing property and other desirable characteristics that the invention compositions are able to provide.

Applicants therefore submit that the polyethylene resin layer and polyolefin type resin layer recited in present Claim 3 are not the same layer. Further, the amendment to Claim 3 to require that the layers are different excludes heat-sealing films wherein the polyethylene resin layer and the polyolefin type resin are the same.

If the polyolefin resin layer and polyolefin-type resin layer of the inventive examples were the same, a comparative film having a structure such as (resin composition)/PE/BOTP may be expected to exhibit similar properties; however, Applicants have shown that a comparative (resin composition)/LDPE/BOPT heat-sealing film is unable to provide the properties of the inventive heat-sealing film.

As was noted in the Amendment submitted on September 23, 2004, the prior art relied upon by the Office does not disclose a four layer structure heat-sealing film such as that presently claimed. Miyamoto discloses a film having a biaxially oriented film, a polyolefin-based layer, and an adhesion layer (see paragraph bridging cols. 3 and 4). The multi-layer heat-sealing film having the structure of the presently claimed heat-sealing film is not disclosed in Miyamoto.

The Office notes that the specification teaches on page 10, lines 10-12 that the layers of the presently claimed invention are taught to be useful as one co-extruded film. The

coextrusion to two materials to provide a single film does not necessarily form a film having a single composition. In fact, the specification even explicitly describes the structure of the co-extruded film as “a double layer film”. Thus, the specification explicitly acknowledges that the coextruded film has two discernible layers.

The Office cites to M.P.E.P. § 2145 (VI) when referring to Applicants regarding the requirement that the polyethylene resin layer and polyolefin-type resin layer of the present claims are two distinct interlayers. This section of the M.P.E.P. is in regards to making arguments for limitations which are not claimed. Applicants submit that it is now an explicit requirement of Claim 3 that a four layer structure is present in the claimed invention and that the four layer structure consists of layers having different chemical composition. Because two layers are between two outside layers, the originally claimed invention has “two distinct interlayers”. Therefore, the heat-sealing film of Claim 3 contains two distinct interlayers.

Because the prior art relied upon by the Office does not disclose a heat-sealing film having the structure or compositional characteristics of the presently claimed heat-sealing film, the prior art cannot anticipate or render obvious the presently claimed invention.

Applicants respectfully request the withdrawal of the rejections and allowance of all now-pending claims.

REQUEST FOR REJOINDER

Upon determining that Claim 3 is allowable, Applicants respectfully request the rejoinder and allowance of Claims 7-18 which are drawn to a process for producing the heat-sealing film as defined in Claim 3. Because Claims 7-18 depend from the allowable product claim, Applicants submit they are in condition for rejoinder and allowance (see MPEP §821.04).

INFORMATION DISCLOSURE STATEMENT

Applicants submitted an Information Disclosure Statement on February 28, 2002 providing a PTO-1449 listing two references. One of the references listed in the "Other References" section of the PTO-1449 has not been initialed as confirmation that it was considered by the Examiner during the examination of the present application. Applicants note that the Office returned a signed and partially initialed copy of the aforementioned PTO-1449 with the Office Action of June 23, 2004; however, the Examiner's initials were not present next to the reference provided in the "Other References" section. Applicants respectfully request the Examiner return a signed, dated and initialed copy of the PTO-1449 of February 28, 2002 indicating that all references provided thereon have been considered during the examination of the present application.

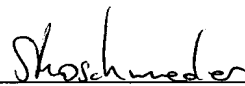
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